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राजपत्र, हिमाचल प्रदेश (असाधारण)

हिमाचल प्रदेश राज्यशासन द्वारा प्रकाशित

शिमला, शनिवार, 8 मार्च, 1986/17 फागुन, 1907

हिमाचल प्रदेश सरकार

HIMACHAL PRADESH VIDHAN SABHA SECRETARIAT

NOTIFICATIONS

Shimla-171004, the 7th March, 1986

No. 1-10/86-VS.—In pursuance to rule 135 of the Rules of Procedure and Conduct of Business of the Himachal Pradesh Legislative Assembly 1973, The Himachal Pradesh Transfer of Land

(Regulation) (Amendment) Bill, 1986 (Bill No. 1 of 1986) having been introduced on the 7th March, 1986, in the Himachal Pradesh Vidhan Sabha, is hereby published in the Gazette.

. V. VERMA,
Secretary.

Bill No. 1 of 1986.

**THE HIMACHAL PRADESH TRANSFER OF LAND (REGULATION)
(AMENDMENT) BILL, 1936**

(AS INTRODUCED IN THE LEGISLATIVE ASSEMBLY)

A

BILL

*to amend the Himachal Pradesh Transfer of Land (Regulation) Act, 1968
(Act No. 15 of 1969).*

BE it enacted by the Legislative Assembly of Himachal Pradesh in the Thirty-seventh Year of the Republic of India, as follows:—

1. (1) This Act may be called the Himachal Pradesh Transfer of Land (Regulation) (Amendment) Act, 1986.

Short title and commencement.

(2) It shall come into force at once.

15 of 1969. 2. The existing section 8 of the Himachal Pradesh Transfer of Land (Regulation) Act, 1968 (hereinafter called the principal Act) shall be renumbered as sub-section (1) of section 8 of the said Act and after the said section so renumbered the following sub-section (2) shall be added, namely:—

Amendment of section 8.

5 of 1908. “(2) Notwithstanding anything to the contrary contained in the Code of Civil Procedure or any other law for the time being in force, any court, vested with the appellate or revisional jurisdiction, may, either on its own motion or on an application moved to it by any person belonging to a Scheduled Tribe, set aside any sale of his property in execution of a decree in favour of a person not belonging to a Scheduled Tribe.

Explanation.—For the removal of doubts, it is hereby declared that the court shall not refuse to take cognizance of an application or refuse to exercise the power conferred upon it, under this sub-section, simply for the reason that the applicant or the person to whom the property in question belonged failed to raise the objection to that extent before the court which either passed the decree or passed any order in execution proceedings thereof.”

3. After section 8 of the principal Act, the following new section 8-A along with its heading, shall be added, namely:—

Addition of section 8-A.

36 of 1963. “8-A. *Amendment of the Limitation Act, 1963, in its application to proceedings under section 8.*—In the Limitation Act, 1963 in its application to the proceedings under section 8, in the Schedule, after the words ‘Twelve years’ occurring in the second column against article 65, the words, brackets and figure ‘but thirty years in case of immovable property belonging to a member of a Scheduled Tribe specified in relation to the State of Himachal Pradesh in the Constitution (Scheduled Tribes) Order, 1950,’ shall be inserted.”

STATEMENT OF OBJECTS AND REASONS

The Himachal Pradesh Transfer of Land (Regulation) Act, 1968 (Act No. 15 of 1969) has been enacted to regulate the transfer of land in the State of Himachal Pradesh in the interest of persons belonging to Scheduled Tribes and for matters connected therewith. Under the provisions of this Act the land held by a person belonging to scheduled tribe cannot, without permission of the appropriate authorities, be alienated to a person not belonging to any such tribe. This restriction has also been extended to sale of immovable property owned by persons belonging to scheduled tribes in execution of decrees, it, however, appears that in some cases the protection intended by the law has not materialised because some courts have held that this protection cannot be invoked by a party which has failed to invoke it in an earlier stage of the proceedings and unless a plea of protection available to a member of a scheduled tribe under the law is taken at an earlier stage, a member of a scheduled tribe cannot raise this plea at a later stage of the proceedings. It is well known that members of scheduled tribes do not often receive competent legal advice in time. As a matter of fact, many of them cannot afford engagement of lawyers. The law clearly intends certain protection for these communities and if this protection is denied by a strict interpretation of rule of *resjudicata*, this beneficial legislation would not succeed in its object. Apart from this in consideration of the low level of education among scheduled tribes and lack of motivation on their part to assert their rights, it is also desirable to increase the period of limitation to 30 years. It has therefore been decided to make suitable amendments in section 8 and to add section 8-A to the said Act.

This Bill seeks to achieve the aforesaid object.

SHIMLA:
The 7th March, 1986.

PIRU RAM,
Minister-in-Charge.

FINANCIAL MEMORANDUM

Nil

MEMORANDUM REGARDING DELEGATED LEGISLATION

Nil

Shimla-171004, the 7th March, 1986

No. 1-7/86-VS.—In pursuance to rule 135 of the Rules of Procedure and Conduct of Business of the Himachal Pradesh Legislative Assembly 1973, the Himachal Pradesh Housing Board (Amendment) Bill, 1986 (Bill No. 2 of 1986) having been introduced on the 7th March, 1986 in the Himachal Pradesh Vidhan Sabha, is hereby published in the Gazette.

V. VERMA,
Secretary.

Bill No. 2 of 1986.

**THE HIMACHAL PRADESH HOUSING BOARD (AMENDMENT)
BILL, 1986**

(AS INTRODUCED IN THE LEGISLATIVE ASSEMBLY)

A

BILL

further to amend the Himachal Pradesh Housing Board Act, 1972 (Act No. 10 of 1972).

BE it enacted by the Legislative Assembly of the Himachal Pradesh in the Thirty-seventh Year of the Republic of India as follows:—

1. (1) This Act may be called the Himachal Pradesh Housing Board (Amendment) Act, 1986.

Short title-
and comm-
encement.

(2) It shall come into force at once.

2. For the words "eight hundred" and "one thousand, two hundred and fifty" wherever these occur in the proviso to sub-section (2) of section 13 of the Himachal Pradesh Housing Board Act, 1972, the words "one thousand" and "one thousand, eight hundred and fifty" shall be substituted respectively.

Amend-
ment of
section 13.

STATEMENT OF OBJECTS AND REASONS

By virtue of the provisions contained in sub-section (2) of section 13 of the Himachal Pradesh Housing Board Act, 1972, the Board can create posts and appoint officers, with the sanction of the Government whose minimum of the pay scale exceeds eight hundred rupees per month or the maximum, of the pay scale exceeds rupees one thousand, two hundred and fifty per month. Consequent to the revision of pay scales of various categories of employees, the Board is not competent to create and recruit a large number of such officers/officials, which it could employ prior to the revision pay scales.

It has, therefore, been considered necessary to make suitable amendments in the aforesaid Act, so as to empower the Board to create and appoint or promote without the prior approval of the State Government officers/officials on any posts if either the minimum of the pay scale of the post does not exceed one thousand rupees per month or the maximum of the scale thereof does not exceed one thousand, eight hundred and fifty rupees per month.

This Bill seeks to achieve the aforesaid objects.

SHIMLA:

The 7th March, 1986.

VIRBHADRA SINGH,

Minister-in-charge.

FINANCIAL MEMORANDUM

Nil

MEMORANDUM REGARDING DELEGATED LEGISLATION

Nil

Shimla-171004, the 7th March, 1986

No. 1-9/86-VS.—In pursuance to rule 135 of the Rules of Procedure and Conduct of Business of the Himachal Pradesh Legislative Assembly 1973, The Land Acquisition (Himachal Pradesh Amendment) Bill, 1986 (Bill No. 3 of 1986) having been introduced on the 7th March, 1986, in the Himachal Pradesh Vidhan Sabha, is hereby published in the Gazette.

V. VERMA,
Secretary.

Bill No. 3 of 1986.

**THE LAND ACQUISITION (HIMACHAL PRADESH AMENDMENT)
BILL, 1986**

(AS INTRODUCED IN THE LEGISLATIVE ASSEMBLY)

A

BILL

to amend the Land Acquisition Act, 1894 (Act No. 1 of 1894) in its application to the State of Himachal Pradesh.

BE it enacted by the Legislative Assembly of Himachal Pradesh in the Thirty-seventh Year of the Republic of India, as follows:—

1. This Act may be called the Land Acquisition (Himachal Pradesh Amendment) Act, 1986. Short title.

1 of 1894 2. In section 18 of the Land Acquisition Act, 1894 (hereinafter called the principal Act), for the sign “.” occurring at the end of existing proviso to sub-section (2), the sign “:” shall be substituted and thereafter, the following second proviso shall be added, namely:— Amendment of section 18.

“Provided further that the Collector may entertain an application under this section after the expiry of the period of six weeks but within a period of six months, if he is satisfied that the applicant was prevented by sufficient cause from making the application in time.”

3. In section 31 of the principal Act,—

(a) after sub-section (3), the following sub-section (3-A) shall be inserted:— Amendment of section 31.

“(3-A) Notwithstanding anything in this section, if the person interested in the land is willing to accept the compensation in kind, instead of money, the Collector may further with the sanction of the appropriate Government, instead of awarding a money compensation in respect of any land, give some other land of equivalent value in exchange of the land acquired and thereby pay the compensation awarded in whole or in part in accordance with the market value of the land so given in exchange.”; and

(b) for sub-section (4) the following sub-section shall be substituted, namely:—

“(4) Nothing in sub-sections (3) and (3-A) shall be construed to interfere with or limit the power of the Collector to enter into any arrangement with any person interested in the land and competent to contract in respect thereof.”

Insertion of
new section
52-A.

4. After section 52 of the principal Act, the following new section shall be inserted, namely:—

“52-A. *Protection of compensation.*—No compensation awarded or awardable under this Act—

- (a) before it is actually paid to the person entitled to receive the same; or
- (b) before or after it is actually paid to the person entitled to receive the same in respect of any land which is not liable, under the law, for the time being in force, to attachment or sale in execution of a decree or order of any court;

shall be liable to seizure, attachment or sequestration by process of any court, at the instance of a creditor, for any demand against the person entitled to compensation, or in satisfaction of a decree or order of any court, and, notwithstanding anything to the contrary in any law for the time being in force, neither the official assignee nor any receiver appointed under any law shall be entitled to proceed against or to have any claim on any such compensation.”

Repeal and
savings.

5. The Land Acquisition (Himachal Pradesh Amendment) Act, 1979, (4 of 1980) is hereby repealed:

Provided that all appointments, rules and orders made, all notifications and notices issued, all transactions entered into and all suits and proceedings instituted under the Act so repealed under this section, so far as they are consistent with the provisions of this Act, shall be deemed to have been respectively made, issued, entered into and instituted under this Act.

STATEMENT OF OBJECTS AND REASONS

The Land Acquisition (Amendment) Act, 1984 (Central Act No. 68 of 1984) which has come into force with effect from the 24th September, 1984 seeks to introduce far reaching changes in the principal Act i.e. the Land Acquisition Act, 1894. Previously the principal Act was amended in its application to this State by the Land Acquisition (Himachal Pradesh Amendment) Act, 1979 (Act No. 4 of 1980). Consequent upon the Central amendments some of the State amendments have become redundant. Hence, it has become necessary to recast the provisions made in the Himachal Pradesh Act No. 4 of 1980.

Apart from this the Himachal Pradesh High Court has also recommended in its verdict given on 31-5-1984 in *Shri Tulsi Ram vs. State of Himachal Pradesh*, to consider the desirability of empowering the Collector, Land Acquisition to entertain even after the expiry of the period of limitation under section 18 of the principal Act, the applications, for making references by condoning the delay for sufficient reasons. This has necessitated the amendments in the Land Acquisition Act, 1894, in its application to this State.

The Bill seeks to achieve the aforesaid objects.

SHIMLA:
The 7th March, 1986.

DHARAM SINGH,
Minister-in-charge.

FINANCIAL MEMORANDUM

Nil

MEMORANDUM REGARDING DELEGATED LEGISLATION

Nil

